

REMARKS

This Reply is responsive to the Office Action dated December 27, 2004, and the Advisory Action dated May 11, 2005. A Request for Continued Examination (RCE) is submitted herewith. Entry of the amendments and remarks submitted herein and reconsideration of the claimed subject matter are respectfully requested.

Applicants respectfully submit that no prohibited new matter has been introduced by the amendment. Support for the amendments to the claims can be found in the original claims, figures and throughout the specification as originally filed. Support for the amendments can be found on page 8, lines 6 through 12, and on page 9, lines 7 through 23, of the specification. Claims 42 and 63 have been cancelled. As amended, claims 22-24, 26, 28-41, 43-45, 47, 49-62, 64-67, 69, 71, and 73-82 are currently under consideration.

Rejection of claims 22-24, 26, 28-45, 47, 49-67, 71, and 73-82 under 35 U.S.C. §112, second paragraph

In the Office Action, claims 22-24, 26, 28-45, 47, 49-67, 71, and 73-82 have been rejected under 35 U.S.C. §112, second paragraph, as allegedly being incomplete for omitting essential elements. Applicants have cancelled claims 42 and 63 without prejudice or disclaimer. Therefore, the Examiner's rejections to claims 42 and 63 are moot.

The Examiner indicated that claims 22-24, 26, 28-45, 47, 49-67, 71, and 73-82 do not recite a measuring step involving a membrane potential dye. Without agreeing with the rejection and solely in an effort to expedite allowance, claims 22, 43, and 64 have been amended to include the step "measuring detectable fluorescence signals from the dye in the cell." Support

for this step can be found on page 8, lines 6 through 12, and on page 9, lines 7 through 23, of the specification. This ground for the rejection is therefore moot.

The Examiner further noted that claims 43 to 45, 47 and 49 to 63 do not refer to a G protein coupled receptor. Without prejudice and solely in an effort to expedite allowance, claim 43 has been amended above to refer to a G protein coupled receptor. This ground for the rejection is therefore moot.

The Examiner further indicated that it is unclear how one can attribute a measured channel activity to a G coupled protein receptor in the absence of a comparative step that employs a cell that is otherwise identical to the test cell except for the absence of receptor protein of interest. Applicants respectfully note that it is unnecessary to include such a step because the use of controls, such as the use of a negative control referred to by the Examiner, was well known by those of ordinary skill in the art at the time the present application was filed. Furthermore, the use of a negative control for a G coupled protein receptor was known in the art. For example, the Ballyk *et al.* patent publication (WO 98/58074), which was cited by Applicants in the Information Disclosure Statement dated November 12, 2003 and later addressed by the Examiner in the Office Action dated June 1, 2004 and Applicants in the Office Action Response dated October 1, 2004, illustrates that the use of a negative control for a G coupled protein receptor was known in the art at the time of the Applicants' invention. See Ballyk *et al.*, page 23, lines 30-31. Because it is unnecessary to disclose or claim what is known in the art, and because it would be clear to the skilled artisan reading the specification how to perform controls in view of the knowledge in the art, Applicants respectfully request that the Examiner reconsider and withdraw this ground for the rejection.

Conclusion

This reply is fully responsive to the Office Action dated December 27, 2004. Therefore, a Notice of Allowance is next in order and is respectfully requested.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310.


This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. 1.136(a)(3).

If the Examiner has any further questions relating to this Reply or to the application in general, he is respectfully requested to contact the undersigned by telephone so that allowance of the present application may be expedited.

Respectfully Submitted,
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